

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition #:** 91-016-06-1-5-00024  
**Petitioner:** Jeff A. Watson  
**Respondent:** White County Assessor  
**Parcel #:** 017-31460-00  
**Assessment Year:** 2006

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. On December 26, 2006, Jeff A. Watson appealed his property’s assessment to the White County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued its determination on December 20, 2007.
2. Mr. Watson then timely filed a Form 131 petition with the Board. He elected to have this case heard under the Board’s small-claims procedures.
3. On June 5, 2008, the Board held an administrative hearing through its Administrative Law Judge, Jennifer Bippus (“ALJ”).
4. Persons present and sworn in at hearing:
  - a) For Mr. Watson: Jeff A. Watson, property owner
  - b) For the Assessor: Scott Potts, Authorized County Representative

**Facts**

5. The property is a single-family residence located at 829 South Wood Street, Brookston, Indiana.
6. Neither the Board nor the ALJ inspected the property.
7. The PTABOA determined the following values for the property:  
Land: \$21,800      Improvements: \$72,300      Total: \$94,100.
8. Mr. Watson requests a total assessment of \$83,000.

## Parties' Contentions

9. Mr. Watson offered the following evidence and arguments:
- a) Local assessing officials overvalued Mr. Watson's property in light of (1) a commissioned appraisal of his property; (2) articles from three publications about declining property values; (3) Mr. Watson's own analysis of other property sales; (4) the land assessments for those sold properties; and (5) the PTABOA's inconsistency in describing the maximum allowable ratio between a property's assessment and its actual value. *Pet'r Exs. 3-5.*
  - b) First, Mr. Watson presented a certified appraisal report prepared by Matthew Abney. *Pet'r Ex. 3.* Mr. Abney is an Indiana Licensed Appraisal Trainee with Appraisal Services of Lafayette, Inc. *Id. at 1, 2.* Jan Abney, an Indiana Certified Residential Appraiser, also signed the appraisal as a supervisory appraiser. *Id. at 8.* Mr. Abney estimated the value of Mr. Watson's property at \$83,000, as of March 1, 2006. *Id. at 2.*
  - c) Second, Mr. Watson offered three articles that discuss declining property values. *Pet'r Ex. 5.* The Winter 2006 issue of the *Indiana Business Review* says that the median price of new homes fell nearly 10% from September 2005 to September 2006, and that median price for existing homes also fell during that period. *Id.* An article from *CNN Money.com* said that existing home sales dropped 8.4% in March 2007. *Id. at 4.* Similarly, an article in *The Lafayette Journal & Courier* said that existing home sales in Lafayette Indiana dropped 8% in April 2007. *Id. at 7.* Based on those articles, Mr. Watson believes that his property should not be assessed for any more than the \$83,000 estimated by Mr. Abney.
  - d) Third, Mr. Watson pointed to 12 properties in his neighborhood that sold between February 2005 and August 2006. *Pet'r Ex. 4.* Those properties sold for an average price of \$75,000. *Watson testimony.* While Mr. Watson admitted that his house is "nicer" than those properties, his lot is smaller. *Id.* He therefore contends that his land assessment is too high.
  - e) Fourth, despite being larger than Mr. Watson's property, many of those properties have lower land assessments. *Watson testimony.* Thus, Mr. Watson believes that his land assessment should be reduced.
  - f) Finally, the county has been inconsistent in describing how close a property's assessment must be to its actual value before a correction can be made. In its Form 115 determination, the PTABOA said that a property's assessment cannot be changed if it falls within 10% of its actual value, but the Assessor now says that an assessment within 15% of the property's value is okay. *Watson testimony; Pet'r Ex. 6.* Mr. Watson's property is assessed for 13% (rounded) more than Mr. Abney's appraisal.

*Watson testimony.* According to the PTABOA's determination, Mr. Watson should be entitled to a reduction. *Watson argument.*

10. The Assessor offered the following evidence and arguments:

- a) Mr. Watson's appraisal report is the best evidence of his property's value. That appraisal, however, actually supports the property's current assessment. Because Indiana uses a mass-appraisal system, assessments need not be as accurate as fee appraisals. *Potts argument.*
- b) To support its position, the Assessor pointed to the Indiana Administrative Code (Tit. 50, r. 21-11-1 (2006)) and the 1999 International Association of Assessing Officers' (IAAO) 1999 Standard on Ratio Studies. *Resp't Exs. A, B.* According to the Assessor, 50 IAC 21-11-1 defines the Coefficient of Dispersion ("COD") as 15% for improved residential property. *Resp't Ex. A at 9.* The COD is the average deviation of a group of numbers from the median, expressed as a percentage. *Resp't Ex. B at 59.*
- c) Thus, the current assessment is correct, because it is only 13.4% higher than what Mr. Abney estimated in his appraisal. In fact, changing Mr. Watson's assessment to reflect Mr. Abney's valuation estimate would create an invalid uniformity. To avoid such a situation, the IAAO Standard prohibits "sales chasing," which it defines as the practice of assessing properties based on their sale prices. *Potts testimony; Resp't Ex. B at 62.* Reassessing Mr. Watson's property at its appraised value would equate to sales chasing. *Potts argument.*
- d) The average sale price for properties in Mr. Watson's neighborhood is meaningless, because Mr. Watson did not adjust any of the sale prices to account for ways in which those properties differed from his property. Also, the perceived discrepancy in land values for neighborhood properties may stem from the front-foot valuation technique that local assessing officials used. *Potts argument.*

### **Record**

11. The official record for this matter is made up of the following:

- a) The Form 131 petition
- b) A digital recording of the hearing
- c) Exhibits:

Petitioner Exhibit 1: Form 11 R/A Notice of Assessment dated November 17, 2006

Petitioner Exhibit 2: Form 130 petition

Petitioner Exhibit 3: Certified appraisal

Petitioner Exhibit 4: Sales information for 12 properties  
Petitioner Exhibit 5: Business reviews  
Petitioner Exhibit 6: Form 115 PTABOA determination  
Petitioner Exhibit 7: Form 131 petition  
Petitioner Exhibit 8: Form 11 R/A Notice of Assessment dated May 9, 2008

Respondent Exhibit A: 50 IAC 21  
Respondent Exhibit B: 1999 IAAO Standard on Ratio Studies  
Respondent Exhibit C: Statement of contentions  
Respondent Exhibit D: Notice of Appearance for Scott Potts on behalf of the  
White County Assessor

Board Exhibit A: Form 131 petition  
Board Exhibit B: Notice of Hearing  
Board Exhibit C: Hearing Sign-In Sheet

d) These Findings and Conclusions.

### **Analysis**

12. The following describes the parties' burden of proof:
- a) A petitioner seeking review of an assessing official's determination must establish a prima facie case proving both that the current assessment is incorrect, and specifically what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b) In making its case, the petitioner must explain how each piece of evidence relates to its requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1012 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board... through every element of the analysis”).
  - c) Once the petitioner establishes a prima facie case, the burden shifts to the respondent to impeach or rebut the petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.
13. Mr. Watson failed to make a prima facie case for reducing his property’s assessment. The Board reaches this conclusion for the following reasons:
- a) Indiana assesses property based on its “true tax value,” which the 2002 Real Property Assessment Manual defines “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The appraisal profession traditionally has used three methods to determine a property’s market value: the cost, sales-comparison, and income

- approaches. *Id.* at 3, 13-15. Indiana assessing officials generally value real property using a mass-appraisal version of the cost approach, as set forth in the Real Property Assessment Guidelines for 2002 – Version A.
- b) A property’s assessment, as determined using the Guidelines, is presumed to accurately reflect its market value-in-use. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh’g den. sub nom. P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax 2006). But a taxpayer may rebut that presumption with evidence that is consistent with the Manual’s definition of true tax value. MANUAL at 5. A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 506 n.6. A taxpayer may also offer actual construction costs, sales information for the subject or comparable properties and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.
  - c) Regardless of the method used to rebut an assessment’s presumption of accuracy, a party to an assessment appeal must explain how his evidence relates to the appealed property’s market value-in-use as of the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the March 1, 2006, assessment, that valuation date is January 1, 2005. IND. ADMIN. CODE tit. 50, r. 21-3-3.
  - d) Here, Mr. Watson offered an appraisal report in which Mr. Abney estimated that Mr. Watson’s property was worth \$83,000. *Pet’r Ex. 3*. Mr. Abney certified that his analysis conformed to USPAP. And he used the sales-comparison approach—a generally accepted appraisal methodology.
  - e) Nonetheless, Mr. Abney’s appraisal suffers from one fatal shortcoming—it estimates the property’s value as of March 1, 2006, instead of January 1, 2005. Mr. Watson attempted to explain how Mr. Abney’s estimate related to the property’s value as of the appropriate valuation date by pointing to articles discussing housing-market trends. But those articles largely focused on markets in late-2006 and early-2007. *See Pet’r Ex. 5*. The *Indiana Business Review* article did quantify a change in median sale prices between September 2005 and September 2006. *Id.* But none of the articles focused on the relevant period from the January 1, 2005, valuation date to Mr. Abney’s March 1, 2006, effective appraisal date. Also, even if prices were falling during the relevant period, that fact would not tend to show that as of January 1, 2005, Mr. Watson’s property was worth no more than the \$83,000 for which Mr. Abney appraised it some 14 months later. If anything, it would support the opposite conclusion.
  - f) Thus, because Mr. Watson did not adequately explain how Mr. Abney’s appraisal related to the property’s value as of January 1, 2005, that appraisal lacks probative value. *See Long* 821 N.E.2d at 471 (holding that a December 2003 appraisal lacked

- probative value in an appeal from a 2002 assessment because the taxpayer did not explain how it related to the relevant valuation date).
- g) Mr. Watson also pointed to the average sale price for 12 properties from his neighborhood. As with Mr. Abney's appraisal, however, Mr. Watson's sales evidence does not expressly relate to the January 1, 2005, valuation date. While some of the sales occurred near that date, others occurred as late as August 2006.
  - h) And Mr. Watson's sales analysis suffers from an even more fundamental problem. Although he appears to have relied on the sales-comparison approach to value, he did not follow the most basic requirement for applying that approach.
  - i) The sales-comparison approach assumes that potential buyers will pay no more for a subject property than it would cost them to purchase an equally desirable substitute property that already exists in the market place. MANUAL at 13-14. A person applying the sales-comparison approach must first identify comparable properties that have sold. *Id.* He or she must then adjust those properties' sale prices to reflect the subject property's value. *Id.* The adjustments reflect differences between the subject and comparable properties that affect value. *Id.*
  - j) Thus, to use a sales-comparison-based value estimate as evidence in an assessment appeal, a party first must establish that the properties upon which he based that estimate were actually comparable to the property being appealed. Conclusory statements that a property is "similar" or "comparable" to another property do not suffice; instead, the party must compare the subject property's characteristics to the characteristics of the purportedly comparable properties. *Long* at 470-71. He or she must also explain how any differences between the properties affect their relative market values-in-use. *Id.*
  - k) As the Assessor correctly argues, Mr. Watson merely pointed to sales of other properties and computed an average sale price. He did not explain how his property compared to the sold properties, other than to say that his house was nicer than the others but that it sat on a smaller lot. And he made no attempt to adjust any of the sale prices to reflect relevant differences. Therefore, the sale prices for those other neighborhood properties do nothing to rebut the presumption that Mr. Watson's property is accurately assessed.
  - l) The same is true for Mr. Watson's claim that his land is assessed for more than larger parcels. Mr. Watson did not show that examining comparable properties' assessments, rather than their sale prices, is a generally accepted approach for determining a property's market value-in-use. Even if it were, Mr. Watson would have needed to explain how the parcels compared to each other in more ways than just their relative sizes.
  - m) Perhaps Mr. Watson pointed to the larger parcels' land assessments not to prove his land's market value-in-use, but rather to show a lack of uniformity and equality in

land assessments. Given the market-value-in-use universe in which we now operate, the Board doubts whether a taxpayer can make such a claim simply by comparing assessments without showing that his property is assessed at a higher percentage of its market value-in-use than other properties. See *Westfield Golf Practice Center, LLC v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 (Ind. Tax Ct. 2007)(finding that taxpayer failed to prove a lack of uniformity and equality where it did not show the market values-in-use of its own property or of any purportedly comparable properties). Even if he could forego comparing assessment-to-market-value-in-use ratios, the taxpayer would have to compare relevant physical characteristics beyond the properties' respective sizes.

- n) Finally, Mr. Watson believes that the Board should grant relief because his property's assessment-to-true-tax-value ratio is greater than 10%. Of course, he incorrectly assumes that Mr. Abney's appraisal shows the property's true tax value. More importantly, the property's assessment-to-value ratio is irrelevant to Mr. Watson's appeal. Had Mr. Watson proven that his property was assessed for more than its true tax value, he would have been entitled to relief no matter what that ratio was. In fairness, Mr. Watson appears to have simply responded to a position taken by both the Assessor and PTABOA. The Board therefore reminds those officials that it has repeatedly rejected attempts to rebut an individual taxpayer's probative market-based evidence of his property's true tax value with claims that the taxpayer's assessment falls within "acceptable" levels of accuracy or uniformity.
- o) In fact, most of the Assessor's rebuttal rests on similarly mistaken notions. For example, the Assessor claims that using Mr. Abney's appraisal to set the property's assessment would cause an "invalid uniformity." *Potts argument*. But the Manual expressly allows taxpayers to rely on market value-in-use appraisals as evidence in individual assessment appeals. MANUAL at 5. Indeed, the Tax Court has described such appraisals, when prepared in conformity with USPAP, as "the most effective method to rebut the presumption that an assessment is correct." *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (quoting *Kooshtard Property VI*, 836 N.E.2d at 506 n.6). Nowhere in its decisions does the Tax Court equate relying on such evidence to "sales chasing" or prohibit reducing a property's assessment to its actual market value-in-use out of fear of creating an "invalid uniformity."
- p) Thus, had Mr. Watson offered probative evidence to show his property's true tax value, he might well have won his appeal. Because he did not, the Board must find for the Assessor.

### **Conclusion**

- 14. Mr. Watson failed to establish a prima facie case of error. The Board finds for the Assessor.

## Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now affirms the assessment.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

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Commissioner,  
Indiana Board of Tax Review

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Commissioner,  
Indiana Board of Tax Review

### - Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>